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BEFORE THE ARIZONA CORPORATION COMMISSION

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APR 11 2012

GARY PIERCE - Chairman  
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SANDRA D. KENNEDY  
PAUL NEWMAN  
BRENDA BURNS

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DOCKETED BY

IN THE MATTER OF THE APPLICATION  
OF DII-EMERALD SPRINGS, L.L.C. FOR A  
CERTIFICATE OF CONVENIENCE AND  
NECESSITY TO PROVIDE WASTEWATER  
SERVICES.

DOCKET NO. WS-20794A-11-0140

IN THE MATTER OF THE APPLICATION  
OF DII-EMERALD SPRINGS, L.L.C. FOR  
APPROVAL OF RATES.

DOCKET NO. WS-20794A-11-0279

PROCEDURAL ORDER

**BY THE COMMISSION:**

This consolidated docket concerns two applications filed by DII-Emerald Springs, L.L.C. ("DII")—an application for a Certificate of Convenience and Necessity ("CC&N") to provide wastewater service, filed on April 4, 2011, in Docket No. WS-20794A-11-0140 ("CC&N Docket"), and an application for ratemaking, filed on July 15, 2011, in Docket No. WS-20794A-11-0279 ("Rate Docket"). The applications filed in the CC&N Docket and Rate Docket were found to be sufficient by the Commission's Utilities Division ("Staff") on August 24, 2011, and August 15, 2011, respectively, and the two dockets were consolidated through a Procedural Order issued on September 15, 2011. The time clock in this consolidated docket was suspended indefinitely by a Procedural Order issued on November 21, 2011. Since that time, the matter has been scheduled and rescheduled for hearing, public comment sessions and procedural conferences have been held, and intervention has been granted to the Emerald Springs Homeowners' Association ("HOA"), to Robhana, Inc. and Charles Dunn Capital, Inc. ("Robhana and Dunn"),<sup>1</sup> and to Doyle Thompson.<sup>2</sup> In addition, it has been reported by the HOA, DII, and Staff that the HOA has disconnected from DII's wastewater treatment plant ("WWTP") and connected to Mr. Thompson's WWTP for what has been described

<sup>1</sup> Robhana and Dunn's intervention was granted during the procedural conference on March 20, 2012. Robhana and Dunn assert that they own the land on which DII's sewer plant sits.

<sup>2</sup> Mr. Thompson requested and was granted intervention at a procedural conference held on April 10, 2012, at which all parties appeared.

1 by the HOA as a test period to determine whether Mr. Thompson's WWTP can handle the  
2 wastewater flows from the HOA members. Neither DII nor Mr. Thompson currently holds a CC&N  
3 to provide wastewater utility services in Arizona.

4 At a procedural conference held on April 10, 2012, at which all parties appeared and Mr.  
5 Thompson was granted intervention, Mr. Thompson indicated that he intends to file an application  
6 for a CC&N to provide wastewater service in the area currently served by his WWTP and a rate  
7 application. Mr. Thompson stated that he believed the application/s would be filed within 30 days.  
8 After some discussion, it was determined that Mr. Thompson would be ordered to make a filing in  
9 this docket within 30 days, notifying the Commission of the status of any application/s,<sup>3</sup> and that a  
10 procedural conference would be scheduled in approximately 60 days to obtain updates and discuss  
11 process and scheduling going forward, including consolidation of this matter with any matter  
12 involving an application by Mr. Thompson. The HOA requested that parties residing outside of the  
13 Phoenix area be permitted to appear telephonically at upcoming procedural conferences, and the  
14 request was denied. It was determined that a Procedural Order would be issued memorializing the  
15 outcome of the procedural conference and scheduling the next procedural conference.

16 Thus, it is now reasonable and appropriate to memorialize Mr. Thompson's filing requirement  
17 and to establish the next procedural requirements for the parties. Although it was determined at the  
18 procedural conference that another procedural conference would be scheduled in approximately 60  
19 days, upon further reflection, it is reasonable and appropriate instead to require the parties to make  
20 filings providing the Commission their updates and proposals for this matter, which shall include  
21 their positions on consolidation of this matter with any dockets involving any application/s by Mr.  
22 Thompson.

23 IT IS THEREFORE ORDERED that Mr. Thompson shall, by May 10, 2012, file in this  
24 docket a **notice** indicating:

25 1. If he has filed any application/s with the Commission, a statement to that effect along  
26 with the filing date and docket number for each application filed;

27 \_\_\_\_\_  
28 <sup>3</sup> Staff indicated that it was likely for an Order to Show Cause to be initiated against Mr. Thompson if he were to  
choose not to file an application for a CC&N.


2. If he has decided not to file any application with the Commission, a statement to that effect and an explanation for his decision; or
3. If he has not filed any application although he still intends to do so, a statement to that effect and an explanation for the delay in filing.

IT IS FURTHER ORDERED that **each party shall, by June 11, 2012, file** in this docket a document providing the Commission an update of the party's position in this matter and the party's proposal for how this matter should go forward, which shall include the party's position on consolidating this matter with any docket/s for Mr. Thompson's application/s, if Mr. Thompson has filed any application/s with the Commission.

IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized Communications) applies to this proceeding and shall remain in effect until the Commission's Decision in this matter is final and non-appealable.

IT IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend, or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

DATED this 11<sup>th</sup> day of April, 2012.

  
SARAH N. HARPRING  
ADMINISTRATIVE LAW JUDGE

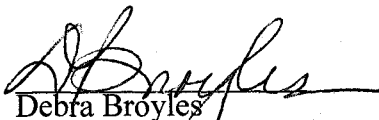
Copies of the foregoing mailed/delivered this 11<sup>th</sup> day of April 2012, to:

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By:

  
Debra Broyles  
Secretary to Sarah N. Harpring